

## SETTLEMENT AGREEMENT

Following mediation with the assistance of Michael Marks, Esq., the Parties signing below have reached the following settlement agreement in reference to all of the issues arising out of or related to the following case: ~~XXXXXXXXXX~~ v. *State of Vermont Agency of Human Services as described in mediation statements*, ("Claim"). The Parties shall exchange the documents and payments required to implement the following.

1. Approval of Agreement. This Agreement is contingent upon approval by the Secretary of Administration. If not approved, this Agreement shall be null and void.

2. No Suit on Claim. No Party shall file suit on the Claim. Each side shall bear its own costs and attorney's fees.

3. General Release. ~~XXXXXXXXXX~~ shall provide a General Release to all other Parties named in the Claim in a form reasonably acceptable to all counsel. The General Release shall cover all claims, including any claims for attorney's fees, that were or could have been raised by ~~XXXXXXXXXX~~ for any reason in the Claim or otherwise against the Parties named in the Claim, extending to any unknown, undiscovered, and undiscoverable claims of any nature, and all persons who could in any way be subjected to these claims, including principals, members, employees, agents, officers, shareholders, insurers and indemnitors. The General Release shall not affect obligations arising under this Agreement, which shall remain fully enforceable.

4. Payment. Within thirty days of receipt of the signed Release ~~XXXXXXXXXX~~ shall receive a total settlement of Thirty-Five Thousand Dollars (\$35,000.00).

5. Other Agreements.

A) DOC will use its best efforts to avoid the use of force with individuals in its facilities who are waiting placement in a level one mental health hospital bed ("Delayed Placement Persons") except in emergent circumstances to ensure the immediate physical safety of the individual, a staff member or others. All

uses of force with Delayed Placement Persons (except in emergent circumstances to ensure the immediate physical safety of the individual, a staff member or others) shall be subject to review within two weeks by a team consisting of DOC medical staff or contractors, an employee of the Department of Mental Health, and DOC personnel to review the use of force and potential alternatives to use of force in the future with such individuals. The review will occur within two weeks.

- B) DOC will use its best efforts to provide Delayed Placement Persons with the same access to services, recreation, medical and mental health services as similarly classified individuals consistent with the Delayed Placement Person's mental health behavioral plan, DOC classification and applicable DOC policies and directives.
- C) AHS shall send the following letter to [REDACTED]: "You have objected to the use of force against you while you were in our facility waiting for a level one mental health hospital bed. In particular, you have objected to the use of OC spray on three occasions. We appreciate that you believe these uses of force were not warranted and wrong. At AHS, we agree that we should take all prudent steps to minimize the circumstances in which force is applied to those in the care of the Department of Corrections. Since the incident involving you, we have taken steps to minimize the circumstances in which force will be applied to those waiting for a level one mental health hospital bed. That process has continued in negotiations with you and your attorneys. Your input has been helpful to AHS and informed us in making changes and provided the basis for our settlement with you. We thank you for your efforts on this important issue, and hope that our settlement helps all of the parties to move forward."
- D) The Department of Corrections will notify Disability Rights of Vermont within four business days of the use of force by DOC with a Delayed Placement Person that do not involve emergent circumstances to ensure the immediate physical safety of the individual, a staff member or others.
- E) The Department of Corrections will provide training on this Agreement to its staff within six months on the requirements of this Agreement.


6. Miscellaneous. This Agreement represents a compromise to avoid litigation. By making this Agreement, no Party makes any admission concerning the strength or weakness of any claim. This Agreement is a comprehensive agreement; all prior understandings and discussions are merged into this Agreement. This Agreement may only be amended by a written instrument signed by all Parties. The Parties shall execute such additional documents as are reasonably requested to implement this Agreement. This Agreement shall be interpreted under the laws of the State of Vermont. All Parties were represented by counsel in the drafting of this Agreement. The presumption against the drafter shall

not apply to the construction of this Agreement. Any participation by the mediator in the drafting of this agreement was in his capacity as mediator in recording mutually agreeable settlement terms, and does not constitute legal advice to any of the Parties. Photocopies of this Agreement shall be as effective as the original. This Agreement shall be binding and enforceable against the successors, heirs and assigns of the Parties.

Dated at Middlebury, Vermont, this 18<sup>th</sup> day of November, 2013.



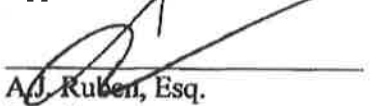
Agent for State of Vermont



Agent for Vermont Human Rights Commission

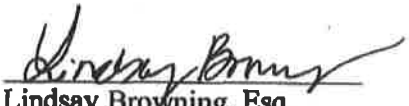
Agent for Correctional Care Solutions

Approved as to form:



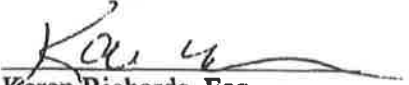
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